

*** NOT FOR PUBLICATION ***

NO. 25891

IN THE SUPREME COURT OF THE STATE OF HAWAII

GERALD M. VILLANUEVA, Plaintiff-Appellant

vs.

STATE OF HAWAII, Defendant-Appellee

APPEAL FROM THE FIRST CIRCUIT COURT
(CIV. NO. 03-1-0138)

ORDER DISMISSING APPEAL

(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.)

Upon review of the record, it appears that the circuit court, the Honorable Dexter D. Del Rosario presiding, has not reduced the August 6, 2003 "Order Granting Defendant State of Hawaii's Motion to Dismiss Complaint, or in the Alternative, Motion for Judgment on the Pleadings" to a separate judgment, as Rule 58 of the Hawaii Rules of Civil Procedure (HRCP) requires. "An appeal may be taken from circuit court orders resolving claims against parties only after the orders have been reduced to a judgment and the judgment has been entered in favor of and against the appropriate parties pursuant to HRCP 58[.]" Jenkins v. Cades Schutte Fleming & Wright, 76 Hawaii 115, 119, 869 P.2d 1334, 1338 (1994); see, e.g., Price v. Obayashi Hawaii Corporation, 81 Hawaii 171, 176, 914 P.2d 1364, 1369 (1996) ("Although RCCH 12(q) [(regarding dismissal for want of prosecution)] does not mention the necessity of filing a separate document, HRCP 58, as amended in 1990, expressly requires that

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'every judgment be set forth on a separate document.'"); CRSC, Inc. v. Sage Diamond Co., Inc., 95 Hawai'i 301, 306, 22 P.3d 97, 102 (App. 2001) ("[W]here all claims are dismissed and there is no relevant HRCP Rule 54(b) certification as to one or more but not all of the dismissals, there must be one final order (judgment) dismissing all claims against all parties."). Without the entry of an appealable final judgment, this appeal is premature, and we lack jurisdiction. Therefore,

IT IS HEREBY ORDERED that this appeal is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, September 17, 2003.